

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>James L. Phelps,</b>	:	
<b>Petitioner/Defendant,</b>	:	<b>Civil Action No. 10-0529-CG</b>
<b>v.</b>	:	<b>Criminal No. 06-00279-CG-C</b>
<b>United States of America,</b>	:	
<b>Respondent.</b>	:	

**ORDER**

After due and proper consideration of all portions of this file deemed relevant to James L. Phelps' motion for leave to appeal in forma pauperis, the Report and Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(3) and dated February 16, 2011 is **ADOPTED** as the opinion of this Court. Further, it is **CERTIFIED** that this appeal is not taken in good faith in that the petitioner has failed to show that he has a non-frivolous issue to be presented to the Eleventh Circuit Court of Appeals. Therefore, petitioner's motion for leave to appeal in forma pauperis (Doc. 142 in Criminal No. 06-279-CG-C) is **DENIED**.

**DONE and ORDERED** this 17th day of February, 2011.

/s/ Callie V. S. Granade  
UNITED STATES DISTRICT JUDGE